

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C. 20436

SANCTIONS FOR BREACH OF COMMISSION ADMINISTRATIVE PROTECTIVE ORDER

AGENCY: U.S. International Trade Commission

ACTION: Sanction for breaches of Commission administrative protective order.

SUMMARY: Notice is hereby given of the sanction imposed by the Commission for breaches of the administrative protective orders (APO) issued in *Bulk Acetylsalicylic Acid from China (Aspirin)*, Inv. No. 731-TA-828 (Final) (APOB Inv. # 210); *Synthetic Indigo from the People s Republic of China*, Inv. No. 731-TA-851 (Final) (APOB Inv. # 211); and *Furfuryl Alcohol from China and Thailand*, Inv. Nos. 731-TA-703 and 705 (Review) (APOB Inv. # 230). The Commission determined that attorneys Bruce Aitken and Kieran Sharpe breached the APO in APOB Inv. # 210 by filing a pre-hearing brief with the Department of Commerce that contained business proprietary information (BPI) obtained under the APO in the Commission s preliminary *Aspirin* investigation. Aitken and Sharpe also breached the APO by serving a copy of the same brief on a law firm that was not on the APO of either the Commission or the Department of Commerce. The Commission found that Bruce Aitken and Kieran Sharpe breached the APO in APOB Inv. # 211 by failing to delete BPI from two pages in the public version of the Final Comments filed with the Commission in the *Synthetic Indigo* investigation. The Commission found that Kieran Sharpe breached the APO in APOB Inv. # 230 by failing to redact BPI from the public version of the Final Comments filed with the Commission in the *Furfuryl Alcohol* review investigation. This public reprimand is being issued because the breaches in APOB Inv. # 210 and APOB Inv. # 211 were the second and third breaches for Aitken within a two-year period, and the breaches in APOB Inv. # 210, APOB Inv. # 211, and APOB Inv. # 230 were the second, third, and fourth breaches for Sharpe occurring within a two-year period.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, DC 20436, telephone

202-205-3088. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission can also be obtained by accessing its Internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION: In connection with the three investigations, *Aspirin*, *Synthetic Indigo*, and *Furfuryl Alcohol*, Messrs. Aitken and Sharpe filed applications for access to APO information with the Commission. In the applications, they swore (i) not to disclose without written permission any of the information obtained under the APO except to certain enumerated categories of approved persons, (ii) to serve all materials containing BPI disclosed under the APO as directed by the Secretary, and (iii) to otherwise comply with the terms of the APO and the Commission's regulations regarding access to BPI. They also acknowledged in the APO that violation of the APO could subject them, and their firm, to disbarment from practice before the Commission, referral to the U.S. Attorney or appropriate professional association, or [s]uch other administrative sanctions as the Commission determines to be appropriate 19 C.F.R. § 207.7(d). The Commission granted their applications.

The firm with which Aitken and Sharpe are affiliated, Aitken Irvin Berlin & Vrooman, LLP, is very experienced in Commission practice as are attorneys Aitken and Sharpe. Both attorneys appear regularly before the Commission and have sought access to APO information on a regular basis. Both Aitken and Sharpe were found to have previously breached an APO in recent prior investigations. Neither of these prior breaches were egregious enough to warrant a public reprimand when considered separately, and were instead dealt with through private reprimands. However, the several current breaches and the recent prior breaches demonstrate a disturbing and unacceptable pattern of overall failure to safeguard information released under APO. Business proprietary information received from

private parties plays an important role in Commission investigations. The Commission's ability to obtain such information depends on the confidence of the submitting parties that their proprietary information will be protected.

Bruce Aitken is reprimanded for breaching the APOs in the *Aspirin* and *Synthetic Indigo* investigations as stated above and for committing multiple APO breaches over a relatively short period of time. Kieran Sharpe is reprimanded for breaching the APOs in the *Aspirin*, the *Synthetic Indigo*, and the *Furfuryl Alcohol* investigations as stated above and for committing multiple APO breaches over a relatively short period of time.

The Commission has decided to suspend Sharpe's access to APO information for a period of six months commencing with the date of the publication of this notice in the *Federal Register*. In addition, the Commission has directed the law firm of Aitken Irvin Berlin & Vrooman to have at least two attorneys review all documents to be filed with the Commission for APO compliance for two years commencing with the date of the publication of this notice in the *Federal Register*.

The authority for this action is conferred by section 207.7(d) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 207.7(d)).

By order of the Commission.

Donna R. Koehnke
Secretary

Issued: November 7, 2001